

**IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA**

FREE SPEECH COALITION, INC. et al.,

Plaintiffs,

V.

MERRICK B. GARLAND,  
Attorney General,

Defendant.

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Civil Action No. 2:09-4607

Judge Michael M. Baylson

## PLAINTIFFS' PROPOSED AMENDED JUDGMENT

AND NOW, this \_\_ day of \_\_\_\_\_, 2021, pursuant to the Court of Appeals' Judgment entered on November 4, 2020 (ECF 288), this Court hereby amends its Judgment of August 3, 2018 (ECF 279) as follows:

1. The Court having found that Plaintiffs Free Speech Coalition, et al., failed to meet their burden on their First Amendment facial overbreadth claim, the Court ENTERS JUDGMENT IN FAVOR OF DEFENDANT Merrick B. Garland, in his official capacity as Attorney General of the United States, on Plaintiffs' First Amendment facial overbreadth challenge to 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*,

2. The First Amendment as-applied claims of Plaintiffs Free Speech Coalition and American Society of Media Photographers, to 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*, are DISMISSED FOR LACK OF STANDING.

3. A suggestion of death of Plaintiff Betty Dodson was filed on December 29, 2020

(Document 289). Pursuant to Federal Rule of Civil Procedure 25, the action by plaintiff Betty Dodson is dismissed.

4. With respect to the as-applied First Amendment challenges to 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*, the Court ENTERS the following JUDGMENT IN FAVOR OF PLAINTIFFS AND AGAINST DEFENDANT: 18 U.S.C. §§ 2257 and 2257A and their implementing regulations, 28 C.F.R. §§ 75.1, *et seq.*, are unconstitutional under the First Amendment as applied to Plaintiffs Barbara Alper, Thomas Hymes, Marie Levine, David Livingston, Barbara Nitke, Carol Queen, Carlin Ross, Townsend Enterprises, Inc. dba Sinclair Institute, and David Steinberg (the “individual plaintiffs”). The Court hereby permanently enjoins Defendant, his agents, servants, employees, attorneys, and other persons acting in concert or participation with him from enforcing these statutes and regulations against the individual plaintiffs.

5. The Court previously entered judgment in favor of Plaintiffs and against Defendant declaring that 18 U.S.C. § 2257 (f)(5), 18 U.S.C. § 2257A (f)(5), as well as the portions of 18 U.S.C. 2257 (c) and 18 U.S.C. § 2257A (c) that require recordkeepers to “make such records available to the Attorney General for inspection at all reasonable times,” and 28 C.F.R. § 75.5 are facially unconstitutional under the Fourth Amendment, Judgment (Doc. 242), in accordance with the decision of the Third Circuit. The Court now hereby permanently enjoins Defendant, his agents, servants, employees, attorneys, and other persons acting in concert or participation with him from enforcing these statutes and regulations.

6. Costs awarded to Plaintiffs and taxed against Defendant in accordance with Fed. R. Civ. P. 54(d)(1), 28 U.S.C. § 2412, 28 U.S.C. § 1920.

**BY THE COURT:**

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**MICHAEL M. BAYLSON, U.S.D.J**